



(4310-G1-P)

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Final Determination Against Federal Acknowledgment of the Central Band of Cherokee

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Final Determination.

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**SUMMARY:** Notice is hereby given that the Department of the Interior (Department) declines to acknowledge that the petitioner known as the “Central Band of Cherokee” (formerly known as the “Cherokees of Lawrence County, Tennessee”), Petitioner #227, is an Indian tribe within the meaning of Federal law. This notice is based on a determination that the petitioner does not meet one of the seven mandatory criteria for a government-to-government relationship with the United States. The Office of Federal Acknowledgment (OFA) produced a Summary under the Criterion as the basis for this final determination (FD).

**DATES:** This determination is final and will become effective on [INSERT DATE 90 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], unless a request for reconsideration is filed with the Interior Board of Indian Appeals.

**ADDRESS:** Requests for a copy of the FD should be addressed to the Office of the Assistant Secretary – Indian Affairs, Attention: Office of Federal Acknowledgment, 1951 Constitution Avenue, NW., MS: 34B-SIB, Washington, DC 20240. The FD and Federal Register notice are also available at the OFA section of the Indian Affairs website at [www.bia.gov](http://www.bia.gov).

**FOR FURTHER INFORMATION CONTACT:** Alycon T. Pierce, Acting Director, Office of Federal Acknowledgment, (202) 513-7650.

**SUPPLEMENTARY INFORMATION:** The Department declines to acknowledge “Central Band of Cherokee” (CBC), Petitioner #227, c/o Mr. Johnny L. Corbin, P.O. Box 331, Lawrenceburg, Tennessee 38464, as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the petitioner does not meet one of the seven mandatory criteria set forth in 25 CFR 83.7, specifically criterion 83.7(e).

The Department issued a proposed finding (PF) on August 6, 2010, proposing to deny acknowledgment of the petitioner under one criterion as permitted by § 83.10(e)(1). The PF found the CBC petitioner was not an Indian tribe within the meaning of Federal law because the petitioner did not meet criterion 83.7(e). This criterion requires that the petitioner’s membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes that combined and functioned as a single autonomous political entity. The review of the evidence for the PF clearly established that the petitioner did not meet criterion 83.7(e) because none of the 407 members demonstrated descent from a historical Indian tribe.

The Department published a notice of the PF in the Federal Register on August 18, 2010 (75 FR 51105). Publishing the notice initiated a 180-day comment period during which time the petitioner, interested and informed parties, and the general public could submit arguments and evidence to support or rebut the PF. In response to the PF, the petitioner or third parties needed to provide evidence for the FD that the petitioner meets the criterion in question under the reasonable likelihood standard in § 83.6(d). The CBC’s comment period ended on February 14, 2011. The Assistant

Secretary – Indian Affairs (AS-IA) found good cause to reopen the comment period and extend it for an additional 180 days to August 15, 2011. The period for the petitioner to respond to third party comments ended on January 7, 2012.

On January 4, 2012, the petitioner requested to withdraw from the acknowledgment process. The regulations provide that once active consideration of the documented petition has begun, the AS-IA shall continue the review and publish proposed findings and a final determination, notwithstanding any request to cease consideration (§ 83.10(g)). The CBC petitioner went on active consideration on August 6, 2010, when the AS-IA issued the PF. Therefore, the OFA notified Petitioner #227 and interested and informed parties that the Department would begin work on a FD on January 23, 2012.

In order to meet criterion 83.7(e), a petitioner must demonstrate that its current members descend from a historical Indian tribe or historical Indian tribes that combined and functioned as an autonomous political entity. Thus, the petitioner must: (1) identify its current members; (2) document the historical Indian tribe and the individuals in that historical Indian tribe from whom the petitioner's current members descend; and (3) document, generation-to-generation, the members' descent from the historical Indian tribe.

The membership list used for the FD is the November 20, 2007, list that was separately certified by the group's governing body and used for the PF. It identified 407 members of the group by full name, birth date, and residential address. Having no other certified membership list, the Department continued to use the 2007 list for the FD.

The petitioner claims its members are descendants of Cherokee Indians who

allegedly remained in Tennessee after 1806 when the historical Indian tribe ceded its lands by treaty, or from Indians who returned to “their traditional lands” in the area of Lawrence County, Tennessee, after evading or escaping from the Cherokee removal in the late 1830s. There is no primary or reliable secondary evidence to validate these claims.

The Department identified the Cherokee Indian rolls taken in the 1800s and early 1900s that would most likely include the petitioner’s ancestors if they were members of the historical Cherokee tribe at that time. However, the Department’s researchers did not find, and the CBC petitioner and third party commenters did not provide evidence, that any of the petitioner’s members or ancestors were on any of these historical rolls.

The petitioner’s comments on the PF included a request that OFA review its members’ genealogies, but did not provide any new evidence for the FD that addresses criterion 83.7(e).

The majority of the third party comments were submitted by the group’s former leader, Joe H. White. His submissions verified some facts about his own family. However, none of his submissions demonstrated his ancestors were Cherokee Indians or members of a historical Indian tribe. He and the other third party commenter submitted undocumented descent reports on family lines that were not named in the records for the PF. There is no evidence that any of the individuals newly identified in these reports are members of the CBC, or that the historical figures named in the reports are ancestors of CBC members.

Genealogical charts or descent reports for about 53 percent (219 of 407) of the CBC members illustrate their claimed descent from historical individuals but their

descent is not documented. This submission does not satisfy the requirements of criterion 83.7(e) for two reasons: (1) the petitioner has not demonstrated the generation-to-generation links between these members and their claimed ancestors; and (2) the claimed ancestors have not been demonstrated to be members or descendants of a historical Indian tribe. Even if these 219 individuals had documented their claimed descent from a historical Indian tribe, such a low percent of descent (53 percent) would not satisfy the requirements of criterion 83.7(e). No petitioner for Federal acknowledgment has satisfied the requirements of the criterion with less than 80 percent of its members demonstrating descent from the historical Indian tribe.

The petitioner's other comments on the PF were a letter and two exhibits that it characterized as "recognition" by the Federal government and the State of Tennessee. The first exhibit was a 2009 Federal District Court ruling that granted the CBC corporation use of a trademark "for purposes at its museum, only in the state of Tennessee." The second exhibit was a June 2010 certificate of recognition from the Tennessee Commission of Indian Affairs, which the PF had found did not provide evidence of Indian descent. These two exhibits did not provide evidence applicable to criterion 83.7(e).

Both of the third parties submitted articles on general Cherokee Indian history, DNA as evidence, and other non-responsive issues. These submissions were either the same as or similar to the documents analyzed for the PF and did not provide evidence for criterion 83.7(e).

In summary, Petitioner #227 has not provided evidence to demonstrate that its ancestors who were named in the PF, or others identified in records submitted for the FD,

were members of a band of Cherokee Indians in Lawrence County. The records do not demonstrate that the petitioner's ancestors were members or descendants of an Indian tribe in any of the localities where those individuals originated prior to settling in Tennessee. The evidence for the FD, whether submitted by the petitioner or third parties, or gathered by the OFA in its verification process, does not document the current members' generation-to-generation descent from their claimed ancestors. The evidence shows that the group known as the "Central Band of Cherokee" is a recently formed group of individuals who claim to have Indian ancestry from a historical Indian tribe, but who have not documented those claims. None of the 407 members of the group has demonstrated descent from a historical Indian tribe or historical Indian tribes that combined and functioned as an autonomous political entity.

The Department declines to acknowledge the group known as the "Central Band of Cherokee," Petitioner #227, as an Indian tribe because the evidence in the record does not demonstrate that the petitioner's members descend from a historical Indian tribe as required by mandatory criterion 83.7(e). The Department bases this FD on an evaluation of materials the petitioner and third parties submitted in response to the PF, and materials already in the record for the PF. This FD also incorporates evidence the Department researchers developed during the verification process. Therefore, this FD should be read and considered in conjunction with the PF.

A copy of the FD that includes the summary evaluation under the criteria and provides the evidence, reasoning, and analyses for the FD will be provided to the petitioner and interested parties, and is available to other parties upon written request. It will be posted on the Bureau of Indian Affairs Website at:

<http://www.bia.gov/WhoWeAre/AS-IA/OFA/RecentCases/index.htm>. Requests for a copy of the FD should be addressed to the office listed in the ADDRESSES section of this notice.

After the publication of this notice of the FD in the Federal Register, the petitioner or any interested party may file a request for reconsideration with the Interior Board of Indian Appeals (IBIA) under the procedures in § 83.11 of the regulations. The IBIA must receive this request no later than 90 days after the publication of the FD in the Federal Register. The FD will become final and effective 90 days from the Federal Register publication, unless a request for reconsideration is received within that time.

Dated: March 23, 2012

Larry Echo Hawk  
Assistant Secretary – Indian Affairs

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